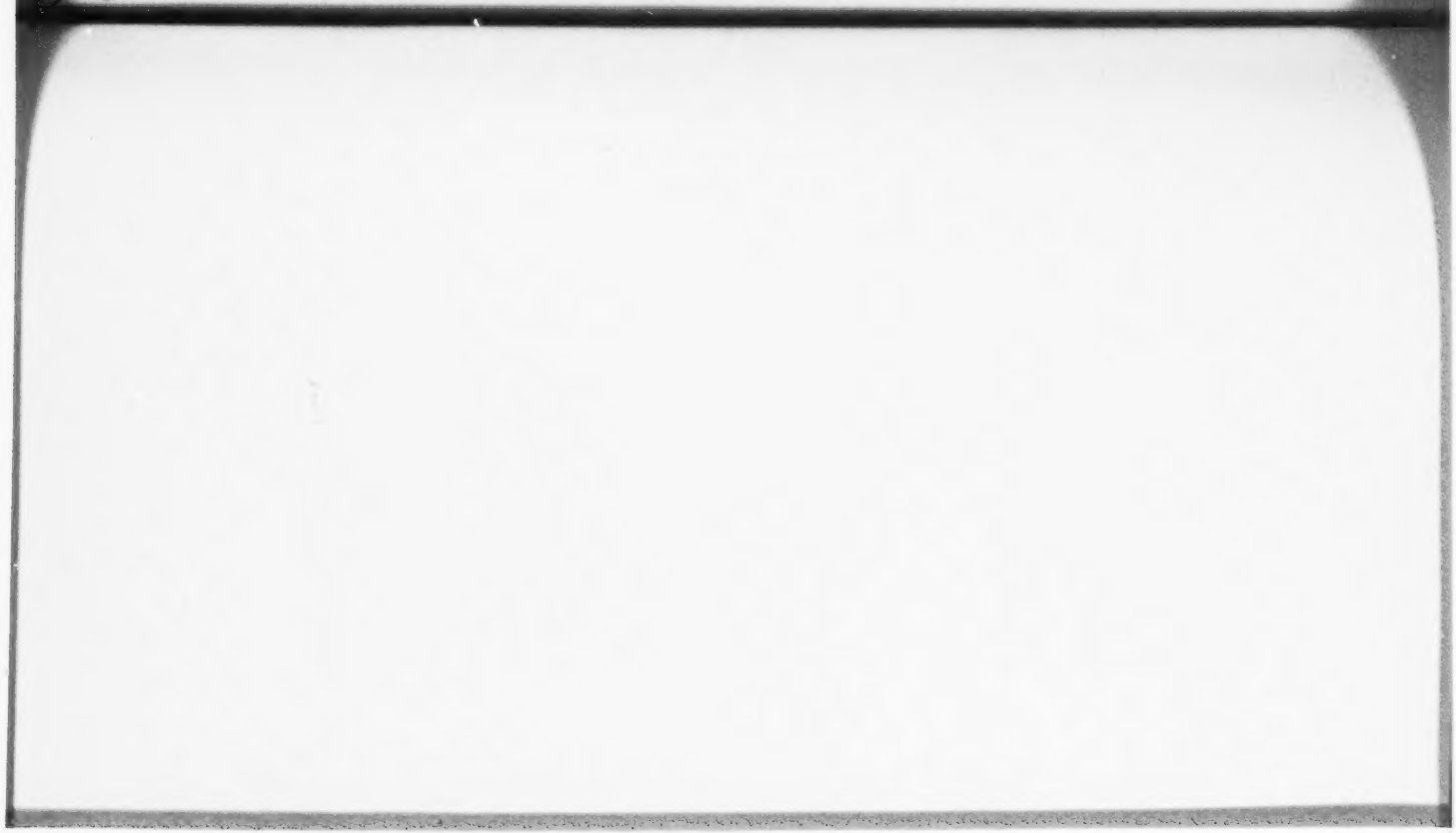


No. 35.

Supp. Brf. of Guthrie, Dickinson, Mayes & Gale for P. E.

FILED
OCT 31 1900
JAMES H. McKENNEY,
Clerk

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 35.

Filed Oct. 31, 1900.

YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL.,
Plaintiffs in error,
vs.
WIRT ADAMS, State Revenue Agent.

IN ERROR TO THE SUPREME COURT OF MISSISSIPPI.

Instances of federal and state legislation involving future appropriations of taxes and of public funds, submitted on behalf of plaintiffs in error.

WILLIAM D. GUTHRIE,
J. M. DICKINSON,
EDWARD MAYES,
NOEL GALE,
For plaintiffs in error.

WASHINGTON, October 31, 1900.

(No. 17,341.)

Supreme Court of the United States.

OCTOBER TERM, 1900.

No. 35.

YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL.,
Plaintiffs in Error,

vs.

WIRT ADAMS, State Revenue Agent.

In Error to the Supreme Court of Mississippi.

INSTANCES OF FEDERAL AND STATE LEGISLATION INVOLVING FUTURE APPROPRIATIONS OF TAXES AND OF PUBLIC FUNDS.

FEDERAL LEGISLATION.

Statutes making future appropriations of public funds.

Appropriation for payment of naval pensions, April 23, 1800, 2 Stat. 53; annual appropriation for six years for naval purposes, March 3, 1821, 3 Stat. 642; annual appropriation for five years for law library of Congress, July 14, 1832, 4 Stat. 579; appropriation to private corporation in aid of construction of submarine cable, not exceeding $70,000 until profits equal six per cent. per annum, and then not exceeding $50,000 per annum for 25 years, March 3, 1857, 11 Stat. 187; annual appropriation for twenty years for Eads jetties, $100,000 per annum, March 3, 1875, 18 Stat. 463;

annual appropriation of interest on fund to Sioux Nation, April 30, 1888, 25 Stat. 101; sugar bounties for fifteen years, October 1, 1890, 26 Stat. 583.

Statutes appropriating or applying the proceeds of future sales of public lands.

In City of Washington, May 1, 1802, 2 Stat. 176; in Indiana, April 11, 1818, 3 Stat. 424; in Illinois, December 12, 1820, *id.* 610; in Missouri, Mississippi and Alabama, May 3, 1822, *id.* 674; in Arkansas (leases), January 6, 1829, 4 Stat. 329; generally, September 4, 1841, 5 Stat. 453; January 28, 1847, 9 Stat. 121; in Alabama, August 11, 1848, *id.* 281; in insurrectionary districts, June 7, 1862, 12 Stat. 425; in Dakota and other territories, February 18, 1881, 21 Stat. 326; Indian reservations, March 2, 1885, 23 Stat. 343, 384; leases of park lands, September 25, 1890, 26 Stat. 478; Indian reservations, October 1, 1890, *id.* 659.

Sinking Funds.

To provide for payment of national debt: May 8, 1792, 1 Stat. 282; March 3, 1795, *id.* 434; August 2, 1813, 3 Stat. 76; November 15, 1814, *id.* 145; March 3, 1815, *id.* 227; May 15, 1820, *id.* 582; March 3, 1821, *id.* 636; April 20, 1822, *id.* 666. To provide for payment of District of Columbia bonds: June 20, 1874, 18 Stat. 120; March 3, 1891, 26 Stat. 1103. To provide for Pacific Railroad bonds: May 7, 1878, 22 Stat. 56, 58.

STATE LEGISLATION.

Specific appropriations of future taxes.

ARKANSAS, appropriation of taxes upon railroad company to pay semi-annual interest on bonds issued to such company, Laws 1868–9, p. 147.

COLORADO, appropriation of tax to be levied annually for five years after nine years from date of issue of state bonds, to create fund for redemption thereof, Laws 1885, p. 180.

IOWA, authority to county to give aid and to appropriate taxes levied on railroad to the payment of construction, Laws 1868, p. 54.

NORTH CAROLINA, appropriation of county taxes upon railroad property to payment of subscriptions in aid of a railroad company, Laws 1891, p. 159.

SOUTH CAROLINA, appropriation of taxes to be received from railroad company to payment of interest on bonds issued in aid thereof, Laws 1891, p. 1401; appropriation of taxes, to be assessed within three years of the time of maturity of bonds issued in aid of a railroad, to pay the same, Laws 1892, p. 347.

TENNESSEE, appropriation for twenty years of county tax upon railroad company to subscribers in aid thereof, Laws 1893, p. 234.

Appropriations of future taxes.

California, appropriation of a tax in each fiscal year to University of California, Laws 1897, p. 44; Florida, annual tax of half a mill for public health purposes, Revised Statutes (1891) sec. 784; Illinois, tax of one per cent. per annum for seven years for levee building, Laws 1897, p. 136; annual tax for thirty years for water works, Laws 1899, p. 108; Iowa, annual tax to pay bonds issued in aid of railroad construction, Laws 1857, p. 227; Louisiana, tax to be set apart to pay interest on bonds issued to build penitentiary, Laws 1869, p. 58; portion of a fund of taxes to be collected in future to be paid to builders of New Orleans and Ship Island Canal, Laws 1869, p. 51; special tax to pay bonds issued in aid of Mississippi and Mexican Gulf Ship Canal, Laws 1869, p. 168; Michigan,

annual appropriation of portion of Michigan state tax to Dairymen's Association, Public Acts, 1899, p. 217; Minnesota, general state tax to be annually levied and proceeds applied to Forestry Fund, Laws 1881, p. 203; New Jersey, annual tax of five dollars for each child for maintaining schools, Gen. St. (1895), p. 3056; North Carolina, special annual tax if railroad company fails to pay bonds issued in its aid, Laws 1868–9, p. 97; Ohio, annual tax in aid of universities, Laws 1900, p. 399; South Carolina, special annual tax for four years to repay loan to counties for improvements, Laws 1900, p. 505; Tennessee, appropriation of so much of state revenue as may be necessary to pay interest on state bonds, Laws 1873, p. 35; Texas, authorizing irrepealable tax for five years to pay for drainage work, Gen. Laws, 1899, p. 98; Washington, annual tax of one-fifth of one mill for national guard, Laws 1895, p. 252; Wisconsin, annual state tax of $268,000 for University Fund, Laws 1899, p. 248.

Future Appropriations of Public Funds.

Alabama, appropriating proceeds of lottery privilege to school fund for twenty years, Laws 1868, pp. 263, 264); applying tax on insurance companies to school fund, Laws 1870–1, p. 6. Delaware, appropriation of ten thousand dollars annually to provide for payment of bonds, and to begin thirteen years after passage of act, Laws 1897, p. 343; Indiana, annual appropriations for "Benevolent Institution Fund," "School Revenue for Tuition Fund" and "State Debt Sinking Fund," Laws 1895, p. 299; Kansas, appropriation proceeds annual tax on insurance companies to relief of disabled firemen, Laws 1895, p. 536; Louisiana, appropriation receipts from sale of street railway and other franchises in New Orleans to drainage commission, Laws 1896, p. 163; Maryland, annual appropriation for agricultural fair association, Laws 1894, p. 609; for scholarships in Washington College, Laws 1896, p. 302; for Anne

Arundel Academy, Laws 1900, p. 400; Massachusetts, annual appropriation to Essex County Law Library Association, Acts 1900, p. 228; Michigan, annual tax and appropriation for state weather service, Public Acts 1895, p. 542; annual appropriations for state board of health, Public Acts, 1897, p. 170, and for hospitals of University of Michigan, Public Acts, 1897, p. 260; Minnesota, annual appropriation for Soldiers' Home, Laws 1899, p. 170; Montana, appropriation of receipts from sales of public lands, etc., to payment of bonds issued in aid of State University, Laws 1897, p. 59; New Hampshire, annual appropriation to Fireman's Relief Fund, Laws 1899, p. 301; North Carolina, annual appropriation to institution for deaf mutes and blind, Laws 1852, p. 103; Ohio, appropriation of portion proceeds tax on foreign insurance companies to police pension fund, Laws 1898, pp. 77, 78; Oregon, annual appropriation interest from fund to State College, Laws 1878, p. 94; Pennsylvania, grant of annuity, Laws 1899, p. 314; South Dakota, appropriation to pay interest to fall due on bonds, to be so used, "and for no other purpose," Laws 1890, p. 46; Virginia, annual appropriation to Virginia Agricultural etc. College, Acts, 1899–1900, p. 844; Wisconsin, annual tax and appropriation for constructing buildings for State Historical Society, Laws 1897, p. 449.

Washington, October 31, 1900.

WILLIAM D. GUTHRIE,
J. M. DICKINSON,
EDWARD MAYES,
NOEL GALE,
For plaintiffs in error.